

109TH CONGRESS
2D SESSION

S. 2443

To grant the power to the President to reduce budget authority.

IN THE SENATE OF THE UNITED STATES

MARCH 16 (legislative day, MARCH 15), 2006

Mr. MCCAIN introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To grant the power to the President to reduce budget authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Separate Enrollment
5 and Line Item Veto Act of 2006”.

6 **SEC. 2. STRUCTURE OF LEGISLATION.**

7 (a) APPROPRIATIONS LEGISLATION.—

8 (1) IN GENERAL.—The Committee on Appro-
9 priations of either the House or the Senate shall not
10 report an appropriation measure that fails to contain
11 such level of detail on the allocation of an item of

1 appropriation proposed by that House as is set forth
2 in the committee report accompanying such bill.

3 (2) POINT OF ORDER.—If an appropriation
4 measure is reported to the House or Senate that
5 fails to contain the level of detail on the allocation
6 of an item of appropriation as required in paragraph
7 (1), it shall not be in order in that House to con-
8 sider such measure. If a point of order under this
9 paragraph is sustained, the measure shall be recom-
10 mitted to the Committee on Appropriations of that
11 House.

12 (b) AUTHORIZATION LEGISLATION.—

13 (1) IN GENERAL.—A committee of either the
14 House or the Senate shall not report an authoriza-
15 tion measure that contains new direct spending or
16 new targeted tax benefits unless such measure pre-
17 sents each new direct spending or new targeted tax
18 benefit as a separate item and the accompanying
19 committee report for that measure shall contain
20 such level of detail as is necessary to clearly identify
21 the allocation of new direct spending or new targeted
22 tax benefits.

23 (2) POINT OF ORDER.—If an authorization
24 measure is reported to the House or Senate that
25 fails to comply with paragraph (1), it shall not be

1 in order in that House to consider such measure. If
2 a point of order under this paragraph is sustained,
3 the measure shall be recommitted to the committee
4 of jurisdiction of that House.

5 (c) CONFERENCE REPORTS.—

6 (1) APPROPRIATIONS.—A committee of con-
7 ference to which is committed an appropriations
8 measure shall not file a conference report in either
9 House that fails to contain the level of detail on the
10 allocation of an item of appropriation as is set forth
11 in the statement of managers accompanying that re-
12 port.

13 (2) AUTHORIZATIONS.—A committee of con-
14 ference to which is committed an authorization
15 measure shall not file a conference report in either
16 House unless such measure presents each direct
17 spending or targeted tax benefit as a separate item
18 and the statement of managers accompanying that
19 report clearly identifies each such item.

20 (3) POINT OF ORDER.—If a conference report
21 is presented to the House or Senate that fails to
22 comply with either paragraph (1) or (2), it shall not
23 be in order in that House to consider such con-
24 ference report. If a point of order under this para-
25 graph is sustained in the House to first consider the

1 conference report, the measure shall be deemed re-
2 committed to the committee of conference.

3 **SEC. 3. WAIVERS AND APPEALS.**

4 Any provision of section 2 may be waived or sus-
5 pended in the House or Senate only by an affirmative vote
6 of three-fifths of the Members of that House duly chosen
7 and sworn. An affirmative vote of three-fifths of the Mem-
8 bers duly chosen and sworn shall be required to sustain
9 an appeal of the ruling of the Chair on a point of order
10 raised under that section.

11 **SEC. 4. SEPARATE ENROLLMENT.**

12 (a) IN GENERAL.—

13 (1) ENROLLMENT.—Notwithstanding any other
14 provision of law, when any appropriation or author-
15 ization measure first passes both Houses of Con-
16 gress in the same form, the Secretary of the Senate
17 (in the case of a measure originating in the Senate)
18 or the Clerk of the House of Representatives (in the
19 case of a measure originating in the House of Rep-
20 resentatives) shall disaggregate the items as ref-
21 erenced in section 6(4) and assign each item a new
22 bill number. After disaggregation each item shall be
23 treated as a separate bill to be considered as pro-
24 vided in subsection (b). The remainder of the bill not
25 so disaggregated shall constitute a separate bill and

1 shall be considered with the other disaggregated bills
2 pursuant to subsection (b).

3 (2) FORM.—A bill that is required to be
4 disaggregated into separate bills pursuant to para-
5 graph (1)—

6 (A) shall be disaggregated without sub-
7 stantive revision; and

8 (B) shall bear the designation of the meas-
9 ure of which it was an item prior to such
10 disaggregation, together with such other des-
11 ignation as may be necessary to distinguish
12 such measure from other measures
13 disaggregated pursuant to paragraph (1) with
14 respect to the same measure.

15 (b) PROCEDURE.—The new bills resulting from the
16 disaggregation described in subsection (a)(1) shall be im-
17 mediately placed on the appropriate calendar in the House
18 of origination, and upon passage, placed on the appro-
19 priate calendar in the other House. They shall be the next
20 order of business in each House and they shall be consid-
21 ered and voted on en bloc and shall not be subject to
22 amendment. A motion to proceed to the bills shall be non-
23 debatable. Debate in the House of Representatives or the
24 Senate on the bill shall be limited to not more than 1 hour,
25 which shall be divided equally between the majority leader

1 and the minority leader. A motion further to limit debate
2 is not debatable. A motion to recommit the bills is not
3 in order, and it is not in order to move to reconsider the
4 vote by which the bills are agreed to or disagreed to.

5 **SEC. 5. VETO OF BILL.**

6 (a) **DEFICIT REDUCTION.**—Amounts of budget au-
7 thority, new direct spending, and revenues represented by
8 a new targeted tax benefit contained in a bill enacted
9 under this Act that is vetoed (with such veto not over-
10 ridden by Congress) shall be dedicated only to deficit re-
11 duction and shall not be used as an offset for other spend-
12 ing increases.

13 (b) **ADJUSTMENTS TO COMMITTEE ALLOCATIONS.**—
14 Not later than 5 days after the date a veto described in
15 subsection (a) is no longer subject to override, the chairs
16 of the Committees on the Budget of the Senate and the
17 House of Representatives shall revise levels under section
18 311(a) of the Congressional Budget Act of 1974 and ad-
19 just the committee allocations under section 302(a) of the
20 Congressional Budget Act of 1974 to reflect the rescission,
21 and the appropriate committees shall report revised alloca-
22 tions pursuant to section 302(b) of the Congressional
23 Budget Act of 1974, as appropriate.

24 **SEC. 6. DEFINITIONS.**

25 In this title:

1 (1) APPROPRIATION MEASURE.—The term “ap-
 2 propriation measure” means any general or special
 3 appropriation bill or any bill or joint resolution mak-
 4 ing supplemental, deficiency, or continuing appro-
 5 priations.

6 (2) AUTHORIZATION MEASURE.—The term “au-
 7 thorization measure” means any measure other than
 8 an appropriations measure that contains a provision
 9 providing direct spending or targeted tax benefits.

10 (3) DIRECT SPENDING.—The term “direct
 11 spending” shall have the same meaning given to
 12 such term in section 250(c)(8) of the Balanced
 13 Budget and Emergency Deficit Control Act of 1985.

14 (4) ITEM.—The term “item” means—

15 (A) with respect to an appropriations
 16 measure—

17 (i) any numbered section,

18 (ii) any unnumbered paragraph, or

19 (iii) any allocation or suballocation of
 20 an appropriation, made in compliance with
 21 section 2(a), contained in a numbered sec-
 22 tion or an unnumbered paragraph but
 23 shall not include a provision which does
 24 not appropriate funds, direct the President
 25 to expend funds for any specific project, or

1 create an express or implied obligation to
 2 expend funds and—

3 (I) rescinds or cancels existing
 4 budget authority;

5 (II) only limits, conditions, or
 6 otherwise restricts the President’s au-
 7 thority to spend otherwise appro-
 8 priated funds; or

9 (III) conditions on an item of ap-
 10 propriation not involving a positive al-
 11 location of funds by explicitly prohib-
 12 iting the use of any funds; and

13 (B) with respect to an authorization meas-
 14 ure—

15 (i) any numbered section, or

16 (ii) any unnumbered paragraph, that
 17 contains new direct spending or a new tar-
 18 geted tax benefit presented and identified
 19 in conformance with section 2(b).

20 (5) TARGETED TAX BENEFIT.—The term “tar-
 21 geted tax benefit” means any provision—

22 (A) estimated by the Joint Committee on
 23 Taxation as losing revenue for any one of the
 24 three following periods—

1 (i) the first fiscal year covered by the
 2 most recently adopted concurrent resolu-
 3 tion on the budget;

4 (ii) the period of the 5 fiscal years
 5 covered by the most recently adopted con-
 6 current resolution on the budget; or

7 (iii) the period of the 5 fiscal years
 8 following the first 5 years covered by the
 9 most recently adopted concurrent resolu-
 10 tion on the budget; and

11 (B) having the practical effect of providing
 12 more favorable tax treatment to a particular
 13 taxpayer or limited group of taxpayers when
 14 compared with other similarly situated tax-
 15 payers.

16 **SEC. 7. JUDICIAL REVIEW.**

17 (a) EXPEDITED REVIEW.—

18 (1) MEMBER OF CONGRESS.—Any Member of
 19 Congress may bring an action, in the United States
 20 District Court for the District of Columbia, for de-
 21 claratory judgment and injunctive relief on the
 22 ground that a provision of this Act violates the Con-
 23 stitution.

24 (2) INTERVENTION BY HOUSES.—A copy of any
 25 complaint in an action brought under paragraph (1)

1 shall be promptly delivered to the Secretary of the
2 Senate and the Clerk of the House of Representa-
3 tives, and each House of Congress shall have the
4 right to intervene in such action.

5 (3) PANEL.—Any action brought under para-
6 graph (1) shall be heard and determined by a three-
7 judge court in accordance with section 2284 of title
8 28, United States Code.

9 (4) AUTHORITY OF HOUSES.—Nothing in this
10 section or in any other law shall infringe upon the
11 right of the House of Representatives or the Senate
12 to intervene in an action brought under paragraph
13 (1) without the necessity of adopting a resolution to
14 authorize such intervention.

15 (b) APPEAL TO SUPREME COURT.—Notwithstanding
16 any other provisions of law, any order of the United States
17 District Court for the District of Columbia which is issued
18 pursuant to an action brought under paragraph (1) of sub-
19 section (a) shall be reviewable by appeal directly to the
20 Supreme Court of the United States. Any such appeal
21 shall be taken by a notice of appeal filed within 10 days
22 after such order is entered; and the jurisdictional state-
23 ment shall be filed within 30 days after such order is en-
24 tered. No stay of an order issued pursuant to an action

1 brought under paragraph (1) of subsection (a) shall be
2 issued by a single Justice of the Supreme Court.

3 (c) EXPEDITED CONSIDERATION.—It shall be the
4 duty of the District Court for the District of Columbia
5 and the Supreme Court of the United States to advance
6 on the docket and to expedite to the greatest possible ex-
7 tent the disposition of any matter brought under sub-
8 section (a).

9 (d) SEVERABILITY.—If any provision of this Act, or
10 the application of such provision to any person or cir-
11 cumstance is held unconstitutional, the remainder of this
12 Act and the application of the provisions of such Act to
13 any person or circumstance shall not be affected thereby.

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